

Application No.: 09/836,625

Docket No.: 263742000201

REMARKS

Claims 1-42 and 51 were cancelled, and claims 41-47 and 49 were withdrawn. Claims 48, 50, 52-54 are pending. Independent claim 48 is amended.

Claims 48, 50, 52-54 are currently under consideration. Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks. For the Examiner's convenience, Applicant's remarks are presented in the order in which they were raised in the Office Action.

Amendments to the claims

By this amendment, independent claim 48 is amended to more clearly define the claimed invention and specify an upper limit of 50% trehalose. Support for the amended claim can be found in the Specification at page 7, lines 33-34 ("[p]referably trehalose is added in an amount to obtain a final concentration of from about 1% to 50% (w/v)") and in the originally filed claims 15 and 32. No new matter has been added. Amendment and cancellation of certain claims is not to be construed as a dedication to the public of any of the subject matter of the claims as previously presented.

Interview with the Examiner

Applicants thank Examiner Davis for the telephone conversation with the Applicants' representative, Shantanu Basu, on March 16, 2004 and her helpful suggestions in consideration of the Applicants' proposed amendment.

Rejection Under 35 USC 112, First paragraph

Claims 48, 50, and 52-54 stand rejected under 35 USC 112, first paragraph for containing new matter.

Specifically, the Examiner objects to a lack of an upper limit above 10% ("for example 100-2000% trehalose"). In response, Applicants amend independent claim 48 to specify "a final

Application No.: 09/836,625

Docket No.: 26374200201

concentration between 10% and 50% (w/v) of trehalose." Claims 52-54 which specify concentrations of "at least" 15% or 30% also include the limitation of by the upper limit of "50%" as specified in independent claim 48, from which claims 52-54 depend. Therefore, Applicants respectfully request withdrawal of this ground for rejection.

Applicants appreciate the Examiner's suggestion that specifying an upper concentration limit will find the claims allowable. In light of the amendments and arguments set forth above, Applicants earnestly believe that they are entitled to a letters patent and respectfully request the Examiner to expedite prosecution of this patent application to issuance. Should the Examiner have any questions, the Examiner is encouraged to telephone the undersigned.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no.263742000201. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: March 16, 2004

Respectfully submitted,

By Shantanu Basu
Shantanu Basu
Registration No.: 43,318
MORRISON & FOERSTER LLP
755 Page Mill Road
Palo Alto, California 94304
(650) 813-5995